

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: PEOPLES NATURAL GAS COMPANY, DIVISION OF UTILICORP UNITED INC.	DOCKET NOS. RFU-98-10, RFU-98-20, RFU-99-4, (WRU-98-13-225)
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ORDER APPROVING AD VALOREM TAX REFUND PLAN

(Issued September 5, 2000)

On March 5, 1998, Peoples Natural Gas Company, Division of UtiliCorp United Inc., (Peoples) filed a request for a waiver of 199 IAC 19.10(8). The filing was identified as Docket No. WRU-98-13-225. Subrule 19.10(8) requires that a utility shall refund to customers an amount equal to any refund received from a supplier, plus interest where appropriate. The subrule also requires the utility to file a refund plan within 30 days of receipt of the refund from the supplier.

Peoples indicated that it had received a refund from Northern Natural Gas Company (Northern) in the amount of \$1,372,564. The refund was for amounts related to the payment of Kansas ad valorem taxes during the period 1983 to 1988. Peoples indicated that the FERC order requiring the refunds was not final and there was a possibility that the refunds would have to be returned. Peoples requested the waiver until the appeals of the FERC order were final. The Board issued an order on April 22, 1998, granting the waiver until the FERC order was final, and directing

Peoples to file a status report concurrent with its annual Purchased Gas Adjustment (PGA) reconciliation filings.

On May 15, 1998, Peoples filed a second refund plan for monies received from Northern related to ad valorem taxes. This filing was identified as Docket No. RFU-98-10. The amount of the refund was \$158,878. Peoples proposed to treat this second refund in the same manner as the first refund approved by the Board on April 22, 1998. On June 19, 1998, the Board issued an order continuing the waiver under the same terms as the first waiver.

On September 1, 1998, Peoples filed a third plan for refunds related to ad valorem taxes. This filing was identified as Docket No. RFU-98-20. The refund amount was \$11,731. Peoples again requested a waiver of 199 IAC 19.10(8) and proposed to treat this third refund in the same manner as the previous two. On September 29, 1998, the Board issued an order approving the refund plan and continuing the waiver.

On May 13, 1999, Peoples filed a request with the Board that a fourth refund from Northern related to Kansas ad valorem taxes should be treated in the same manner as the previous three refunds. The filing was identified as Docket No. RFU-99-4. The Board approved the treatment of the refund in a letter from the Executive Secretary dated June 9, 1999.

The U.S. Court of Appeals issued an order, on October 29, 1999, which affirmed the FERC order that required refunds of amounts paid for Kansas ad

valorem taxes, with interest. On March 3, 2000, the Board issued an order finding that the uncertainty regarding the refund had been reduced and directing Peoples to file a plan to refund the money from the four ad valorem tax refunds to customers. The Board indicated that the waivers granted previously were terminated.

On April 3, 2000, Peoples filed an application for rehearing of the March 3, 2000, order and requesting the continuance of the waiver of 199 IAC 19.10(8). Peoples asserted that there was still significant uncertainty concerning the refunds. On April 13, 2000, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed a response supporting the retention of the refunds by Peoples. The Board, by order issued April 14, 2000, granted the rehearing and continued the waiver until November 1, 2000, at which time it directed Peoples to include the refunds in the annual PGA reconciliation.

In the order, the Board stated that allowing Peoples to retain the refund amounts until the PGA reconciliation was beneficial because, (1) the refund amounts could be used to offset any PGA under-collections, (2) the additional time should clarify the total amount of the refunds, and (3) by refunding through the PGA, the expense of bill credits or checks would be eliminated. The Board stated that Peoples could file for different treatment within 30 days.

On May 16, 2000, Peoples filed for rehearing of the April 14, 2000, order requesting that the Board authorize Peoples to recover from customers any of the refund Peoples would be required to return to Northern in the future. On May 18,

2000, Consumer Advocate filed a response in which it requested the Board consider returning a portion of the refunds to current transportation customers.

On June 5, 2000, the Board issued an order denying Peoples request for rehearing of its April 14, 2000, order, but pursuant to Consumer Advocate's suggestions granting reconsideration to determine whether a portion of the refunds should go to transportation customers. The Board then adopted a procedural schedule to address the refunds. In compliance with the procedural schedule, on June 15, 2000, Peoples filed a response, which stated that it would agree to include transportation customers in the ad valorem tax refunds. On June 23, 2000, Peoples filed a report showing its proposed method of allocating a portion of the Kansas ad valorem tax refunds to current transportation customers. Peoples proposed to calculate the refunds based upon 12-month volumes ending April 2000. This would return approximately 48 percent of the refund through the PGA and 52 percent to current transportation customers. In addition, a transportation customer could furnish appropriate proof of actual usage during 1983 to 1988, in lieu of using the 12-month ending April 2000 transportation volumes. Consumer Advocate filed a pleading on July 6, 2000, agreeing with the procedure proposed by Peoples in the report.

The Board has reviewed the extended history concerning the return of ad valorem tax refunds to Iowa customers. The refunds have been the subjects of much litigation, which has delayed the return of these refunds. Most of the litigation has been concluded and the Board now has a plan before it to return money to

customers. Because of the delay, the customers who paid the taxes as part of the cost of gas from 1983 to 1988 may not be the customers who receive the benefit of the refund. The passage of time has made refunds based upon actual volumes from the refund period impractical. Peoples has proposed using the 12 months ending April 2000 volumes as a substitute for the actual data for the period when the taxes were paid.

The taxes were paid by sales customers on Peoples' system during a time when large customers were switching from sales to transportation service. Although current transportation customers are not sales customers today, the Board finds that they should share in the refunds. The plan proposed by Peoples will return the money to current sales customers through the PGA, which will reduce the cost of gas over the reconciliation period after November 1, 2000. The plan will return the money to current transportation customers as bill credits or by check.

The Board finds that the plan proposed by Peoples is reasonable considering the inability or impracticability of recreating the customer volumes for the period when the ad valorem taxes were paid. The use of 12 months ending April 2000 volumes for division of the refunds between current sales customers and transportation customers will allow the refunds to be returned in as equitable a manner as is practical. OCA has concurred in this plan. The Board will therefore approve the plan to refund the ad valorem tax refunds as proposed by Peoples on June 23, 2000.

IT IS THEREFORE ORDERED:

1. The refund plan filed by Peoples Natural Gas Company, Division of UtiliCorp United Inc., on June 23, 2000, is approved.
2. Peoples shall file a final report showing the total amount refunded to sales and transportation customers within 30 days of the completion of the refund.

UTILITIES BOARD

/s/ Allan T. Thoms

/s/ Susan J. Frye

ATTEST:

/s/ Raymond K. Vawter, Jr.
Executive Secretary

/s/ Diane Munns

Dated at Des Moines, Iowa, this 5th day of September, 2000.